

AMENDED IN SENATE APRIL 10, 2003

**SENATE BILL**

**No. 65**

**Introduced by Senators Torlakson, Escutia, and Ortiz**  
(Principal coauthors: Assembly Members Jackson and Leno)

January 16, 2003

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An act to amend Section 35182.5 of the Education Code, relating to school district governing boards.

LEGISLATIVE COUNSEL'S DIGEST

SB 65, as amended, Torlakson. School district governing boards: contracts.

Existing law prohibits the governing board of a school district from entering into a contract that grants exclusive advertising rights, or grants the right to the exclusive sale of carbonated beverages, throughout the district to a person, business, or corporation unless the governing board of the school district has adopted a policy after a public hearing to ensure that the district has internal controls in place regarding the expenditure of public funds.

This bill would make these provisions applicable to any contract for the ~~nonexclusive~~ sale of carbonated beverages *or nonnutritious beverages or nonnutritious, as defined, food within the school district*. The bill would, in addition, prohibit a governing board from entering into ~~any contract for the sale of carbonated beverages~~ *that contract or authorizing a school within the district to enter into that contract*, unless the governing board provides written notice, *as specified*, to parents or guardians of pupils regarding the contract and provides each of those persons with an opportunity to comment on the contract.

*This bill would require that the notice be accomplished using existing means of communication at no additional cost to the school district, or*

*that it be paid for by the person or entity entering into the contract with the school or school district.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35182.5 of the Education Code is  
2 amended to read:

3 35182.5. (a) The governing board of a school district may not  
4 do any of the following:

5 (1) Enter into a contract *or permit a school within the district*  
6 *to enter into a contract* that grants exclusive or nonexclusive  
7 advertising or grants the right to the exclusive or nonexclusive sale  
8 of carbonated beverages ~~throughout~~ *or nonnutritious beverages*  
9 *or nonnutritious food within the district* to a person, business, or  
10 corporation, unless the governing board of the school district does  
11 all of the following:

12 (A) Adopts a policy after a public hearing of the governing  
13 board to ensure that the district has internal controls in place to  
14 protect the integrity of the public funds and to ensure that funds  
15 raised benefit public education, and that the contracts are entered  
16 into on a competitive basis pursuant to procedures contained in  
17 Section 20111 of the Public Contract Code or through the issuance  
18 of a Request for Proposal.

19 (B) ~~Provides~~ *Two weeks prior to the opportunity to comment*  
20 *provided pursuant to subparagraph (C), provides* written notice to  
21 the parents or guardians of each pupil prior to entering into the  
22 contract. *The notice shall be accomplished using existing means*  
23 *of communication at no additional cost to the school district, or*  
24 *shall be paid for by the person or entity entering into the contract*  
25 *with the school or school district.*

26 (C) Offers the parents or guardians of each pupil the  
27 opportunity to comment on the contract prior to entering into the  
28 contract.

29 (2) Enter into a contract that prohibits a school district  
30 employee from disparaging the goods or services of the party  
31 contracting with the school board.

32 (3) Enter into a contract or permit a school within the district  
33 to enter into a contract for electronic products or services that



1 requires the dissemination of advertising to pupils, unless the  
2 governing board of the school district does all of the following:

3 (A) Enters into the contract at a noticed public hearing of the  
4 governing board.

5 (B) Makes a finding that the electronic product or service in  
6 question is or would be an integral component of the education of  
7 pupils.

8 (C) Makes a finding that the school district cannot afford to  
9 provide the electronic product or service unless it contracts to  
10 permit dissemination of advertising to pupils.

11 (D) Provides written notice to the parents or guardians of pupils  
12 that the advertising will be used in the classroom or other learning  
13 centers. This notice shall be part of the district's normal ongoing  
14 communication to parents or guardians.

15 (E) Offers the parents the opportunity to request in writing that  
16 the pupil not be exposed to the program that contains the  
17 advertising. Any request shall be honored for the school year in  
18 which it is submitted, or longer if specified, but may be withdrawn  
19 by the parents or guardians at any time.

20 (b) The governing board of a school district may sell  
21 advertising, products, or services on a nonexclusive basis.

22 (c) The governing board of a school district may post public  
23 signs indicating the district's appreciation for the support of a  
24 person or business for the district's education program.

25 (d) Contracts entered into prior to January 1, 2000, may remain  
26 in effect, but may not be renewed if they are in conflict with this  
27 section.

28 (e) *For the purposes of this section, the following terms have*  
29 *the following meanings:*

30 (1) *"Nonnutritious beverages" means any beverage that is not*  
31 *any of the following:*

32 (A) *Drinking water.*

33 (B) *Milk, including, but not limited to, chocolate milk, soy milk,*  
34 *rice milk, and other similar dairy or nondairy milk.*

35 (C) *An electrolyte replacement beverage that contains 42*  
36 *grams or less of added sweetener per 20 ounce serving.*

37 (D) *A one hundred percent fruit juice, or fruit-based drink that*  
38 *is composed of 50 percent or more fruit juice and that has no added*  
39 *sweeteners.*

1     (2) *“Added sweetener” means any additive that enhances the*  
2 *sweetness of the beverage, including, but not limited to, added*  
3 *sugar, but does not include the natural sugar or sugars that are*  
4 *contained within any fruit juice which is a component of the*  
5 *beverage.*

6     (3) *“Nonnutritious food” means food that is not sold as part of*  
7 *the school breakfast or lunch program as a full meal, and that*  
8 *meets any of the following standards:*

9     (A) *More than 35 percent of its total calories are from fat.*

10    (B) *More than 10 percent of its total calories are from saturated*  
11 *fat.*

12    (C) *More than 35 percent of its total weight is composed of*  
13 *sugar. This subparagraph does not apply to the sale of fruits or*  
14 *vegetables.*

